

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -SEPTEMBER 7, 2010- -7:00 P.M.

Mayor Johnson convened the meeting at 7:05 p.m. Vice Mayor deHaan led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers deHaan, Gilmore, Matarrese, Tam and Mayor Johnson – 5.

Absent: None.

AGENDA CHANGES

(10-399) Mayor Johnson addressed the Proclamation [paragraph no. 10-403] after the Hospital presentation [paragraph no. 10-402].

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(10-400) Presentation on the West Alameda Business Association (WABA) Webster Street Jam Festival.

Kathy Moehring, WABA Executive Director, gave a brief presentation and invited everyone to attend the Webster Street Jam Festival.

(10-401) Presentation by Commission on Disability Issues.

Disability Commission Chair Leslie Krongold gave a Power Point presentation.

Mayor Johnson thanked the Commissioners for the great work in the community.

Councilmember Matarrese inquired whether the Commission would hold a faire this year.

Ms. Krongold responded in the negative; stated the undertaking was huge; the Commission decided to have the accessible exercise program instead; the Commission might hold a faire next year.

Councilmember Gilmore stated the accessible exercise program would be available in October, inquire whether the program could be continued on a case-by-case basis.

Ms. Krongold responded the ball would start rolling in October; stated conversations are being initiated with gyms and exercise centers throughout the City; hopefully, gyms and exercise centers will modify classes to meet needs and the program will be the beginning of something more.

(10-402) Presentation by the Alameda Hospital District.

Jordan Battani, President Hospital Board, gave a brief presentation; and Debra Stebbins, CEO Alameda Hospital, gave a Power Point presentation.

Mayor Johnson inquired whether Alameda residents can use the primary care clinic.

Ms. Stebbins responded in the affirmative; stated the clinic operates like a private practice; physicians are employed by the Hospital; Alameda Hospital is allowed to do this since it is a district hospital; California is one of three states with an exemption for corporate medical practice.

Mayor Johnson inquired whether the Hospital's website is linked to the City's website.

The Deputy City Manager – Administrative Services responded that she is 99% sure that it is, but she would check.

Councilmember Tam stated recently, the Veteran's Administration (VA) gave a presentation to Council on plans to build a \$200 million clinic at Alameda Point; inquired whether having a VA clinic at Alameda Hospital instead of Alameda Point would be realistic in light of losing the Kaiser contract.

Ms. Stebbins responded Alameda Hospital continues to enjoy a very good relationship with the VA; stated that she sees the need to expand the VA clinic operation in Oakland; expansion at Alameda Hospital would be difficult; the Hospital has the capacity to provide VA patients with in-patient care, emergency services, and surgery; Alameda Hospital is working with San Francisco and Palo Alto facilities on how overflow is managed; Alameda Hospital does not have the room to meet the proposed 90,000 square foot facility at Alameda Point.

Councilmember Tam stated the City's budget is very similar to the Hospital's; inquired how much has been saved with the [Hospital's] 5% reduction in Executive Management pay.

Ms. Stebbins responded the 5% reduction was for all non-represented staff, including management and executive staff; stated savings amounted to approximately \$500,000.

Councilmember Tam stated there have been discussions regarding potential partnerships between the City and Health Care District in terms of ambulance transport; inquired what the partnerships would look like.

Ms. Stebbins responded one issue might be the ability to direct more non-critical transports; stated her concern would be taking the City's Fire Department ambulances out of service, which would result in the ambulances not being available for critical care transport; an increase in rigs might be needed, which could be counterproductive.

Councilmember Tam inquired what is the total contract amount for ambulance

transports.

Ms. Stebbins responded that she does not know; stated the cost is charged to patients, not the hospital; the amount would be easy to get.

Councilmember Matarrese stated that he has suggested having a liaison sub-committee with the Hospital Board and City Council, similar to those with the School District and AC Transit; some items that could be discussed with the liaison sub-committee would be: 1) off-site expansions, which would be an economic development component; 2) the VA and Alameda Reuse and Redevelopment Authority relationship; and 3) emergency and non-emergency transport services, including the City's franchise rights; the City's relationship with AC Transit and School Board is valuable.

Councilmember Gilmore thanked Ms. Stebbins for the presentation; stated that she is constantly being asked how the Hospital is doing and how its financial picture fits with the need for seismic retrofitting; inquired how capital expenditures would be funded.

Ms. Stebbins responded the Hospital has discussed various financing options with an advisor; stated the Hospital has very little debt; not having a long history of positive margins and reserves complicates the ability to access capital; the Cal Mortgage program is available for hospital financing; an initial presentation has been made to Cal Mortgage; a formal application will be submitted in a couple of months; a presentation will be made to the Loan Committee around December or January; Cal Mortgage tends to be more lenient in terms of consequences because Alameda Hospital is not the only hospital in a financially challenged situation.

Councilmember Gilmore stated that she hopes Council receives updates as the Hospital moves through the process; the community is interested in the issue.

Ms. Stebbins stated several community meetings would be held; the Hospital enjoys a very good relationship with its neighbors; the entire process will take less than a year; that she would be glad to provide regular updates.

Vice Mayor deHaan inquired whether State funding or grants are available for retrofitting.

Ms. Stebbins responded in the negative; stated retrofitting is another unfunded mandate; stated that she has had meetings with Congressman Stark regarding tapping into the American Recovery and Reinvestment Act, but the money cannot be used for retrofitting.

Vice deHaan stated the Hospital losing the Kaiser contract resulted in a 14% cut; inquired whether the Hospital settled with the nurses.

Ms. Stebbins responded the Hospital settled a four-year contract with Service Employees International Union (SEIU) before the Kaiser contract terminated in

November; the California Nurses Association (CAN) Contract was negotiated after the Hospital received the news about Kaiser; the Hospital has settled three union contracts: Local 6, Local 29, and CAN; all unions agreed to a wage freeze; CAN has a three-year wage freeze.

Vice Mayor deHaan stated costs for constructing hospital beds have gone up.

Ms. Stebbins stated construction costs have gone up at an expedient rate; seismic retrofitting is costing the hospital industry a lot of money; hospitals that are not in any financial difficulty are having financial challenges; the whole picture has changed.

Vice Mayor deHaan inquired whether the Hospital has unfunded pensions.

Ms. Stebbins responded in the negative; stated the Hospital has very complex pension funds; some pensions are managed by the unions and a couple are at the 80% or 90% [funded] level; two pension programs have been frozen; one is active and is funded at the required level; northern California and Bay Area hospitals have been very generous in other regards, but have not gotten into pension or health care funding for retirees.

Mayor Johnson stated that Ms. Stebbins is welcomed to come back on a regular basis.

(10-403) Proclamation Declaring September 25 as Coastal Clean Up Day 2010.

Mayor Johnson read and presented the proclamation to the Public Works Coordinator.

The Public Works Coordinator stated over 2,000 volunteers have picked up 8,500 pounds of debris.

Mayor Johnson stated the spartina eradication program has had an impact on reclaiming Bay waters.

Vice Mayor deHaan stated McDonald's is one of the biggest debris generators; a program should be established to address the problem.

(10-404) Announcement regarding the Sunshine Task Force Workshop to be held on September 11, 2010 at 1:00 p.m., at the Alameda Free Library, Stafford Meeting Room.

Gretchen Lipow, Sunshine Task Force Chair, gave a brief presentation and encouraged everyone to attend the Workshop.

Speaker: Jon Spangler, Alameda.

CONSENT CALENDAR

Vice Mayor deHaan moved approval of the Consent Calendar.

Councilmember Tam seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*10-405) Minutes of the Regular City Council Meeting held on July 20, 2010, and the Special City Council Meeting held on July 27, 2010. Approved.

(*10-406) Ratified bills in the amount of \$27,677,201.59.

(*10-407) Recommendation to Empower the City Attorney to Employ Special Legal Counsel to Defend SCC Alameda Point, LLC, v. City of Alameda et al. Accepted.

(*10-408) Recommendation to Allocate \$1,088,382 in Urban Runoff Funds and Award a Contract in the Amount of \$1,088,382, Including Contingencies, to GSE Construction for the Upgrades to the Northside Storm Drain Pump Station, No. P.W. 02-10-06. Accepted.

(*10-409) Recommendation to Award a Contract in the Amount of \$1,372,209, Including Contingencies, to WR Ford for the Cyclic Sewer Replacement Project, Phase 8, No. P.W. 01-10-03. Accepted.

(*10-410) Recommendation to Award a Contract in the Amount of \$88,500, Including Contingencies, to Clean Lakes, Inc., for Vegetation Management, Debris Management, and Water Quality Monitoring for South Shore Lagoons, No. P.W. 07-10-19. Accepted.

(*10-411) Recommendation to Award a Contract in the Amount of \$337,472, Including Contingencies, to Weber Tractor Service for the Repair of Portland Cement Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, Fiscal Year 2010-2011, Phase 11, No. P. W. 06-10-14. Accepted.

(*10-412) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for Sewer Point Repairs and Asphalt Concrete Replacement within the City of Alameda, No. P.W. 07-10-20. Accepted.

(*10-413) Resolution No. 14484, “Authorizing the Interim City Manager to File an Application for \$837,000 in Federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Funding for the City of Alameda Certain Street Rehabilitation, No P.W. 08-10-21 (Otis Drive, Westline Drive to Willow Street), Appropriate \$108,442 in Proposition 42 Funds as the Necessary Local Match, and Stating the Assurance to Complete the Project.” Adopted.

(*10-414) Resolution No. 14485, “Ratifying the Public Utilities Board's Approval of the First Amendment to Agreement for Construction, Operation, and Financing of Combustion Turbine Project Number One and the Quitclaim Deed Form for the Roseville Combustion Turbine Units, and Authorizing the General Manager of Alameda Municipal Power to Execute the First Amendment and Authorizing the Mayor to Execute

the Quitclaim Deed Form.” Adopted.

(*10-415) Resolution No. 14486, “Appointing Mayor Johnson as the City’s Delegate for Voting Purposes at the League of California Cities Annual Business Meeting.” Adopted.

(*10-416) Resolution No. 14487, “Stating the City’s Positions on the League of California Cities Annual Business Meeting Resolutions.” Adopted.

CITY MANAGER COMMUNICATIONS

(10-417) Presentation on Planning and Building Fees

The Interim City Manager gave a brief introduction and the Building Official gave a Power Point presentation.

In response to Mayor Johnson’s inquiry, the Building Official stated that some of Alameda’s fees are higher than other cities and some are lower.

Mayor Johnson inquired what Alameda fees are 13% higher than other cities, to which the Building Official responded re-roof permits.

Mayor Johnson inquired whether cities were polled on the number of required inspections for a project, to which the Building Official responded the number of inspections for a project is required by Code.

Mayor Johnson inquired whether a comparison was done on the number of inspections from start to end, to which the Building Official responded in the negative.

Mayor Johnson stated the issue should be researched.

The Building Official stated that he would look into the matter; continued the presentation.

Mayor Johnson stated getting different information from inspectors increases the need for more inspections.

The Building Official continued the presentation.

Councilmember Gilmore inquired what a person could get for a \$10,000 kitchen remodel.

The Building Official responded the \$10,000 valuation is based upon square footage; stated the valuation is not a cost but a record keeping number and does not measure out specifically.

Mayor Johnson inquired what is the average amount of a kitchen remodel, to which the

Building Official responded approximately \$150 per square foot.

Mayor Johnson inquired how Alameda fees compare to other cities.

The Building Official responded other cities do not charge based upon valuation; stated remodels have a standard fee; continued the presentation.

Mayor Johnson inquired whether all the types of permits reviewed represent less than 30% of permits issued, to which the Building Official responded in the affirmative.

Mayor Johnson inquired what type of permits represent the remaining 70%.

The Building Official responded improvements, furnace replacements, electrical service changes, termite reports, residing, and windows.

Councilmember Matarrese stated window replacements, awnings, porches, and decks have outrageous permit fees; that he would like to get more information; when he wanted to put a pergola on the back of his house, the permit fee was three times the cost of materials.

Vice Mayor deHaan noted the number of termite permits must be high because a permit is required whenever a property is transferred.

The Building Official stated window permits often require a significant planning fee; staff is looking at ways to change design review charges.

Councilmember Matarrese stated a change would prevent bootleggers.

The Building Official stated people do not pull permits if fees are too high.

Vice Mayor deHaan stated staff used to measure responsiveness through the [permit] process; inquired whether staff currently has a benchmark or measuring device.

The Building Official responded over the last six months, he has been conducting an on-line survey once a project is complete; stated responses have been overwhelmingly positive.

Vice Mayor deHaan stated that he would like to see the responses.

The Building Official stated that he would provide the information; all information is submitted anonymously.

Mayor Johnson inquired whether people are clear about what is required for a simple permit; further inquired whether information is available on the website so contractors know what is required for simple projects in order to avoid interpretation problems.

The Building Official responded a number of handouts are available to address specific requirements; stated staff works very hard to ensure that interpretations are accurate and consistent.

Mayor Johnson inquired whether people are assured that comments are anonymous; stated in the past, people have been afraid of retaliation; perhaps comments should go to a third party; inquired what percentage of people submit comments.

The Building Official responded approximately 20%; stated the survey goes through a third party on-line survey company; that he has an open door policy.

Mayor Johnson inquired whether electricity needs to be upgraded to code when a kitchen countertop is changed.

The Building Official responded three of the six jurisdictions he checked with require an electrical upgrade, and three do not; stated the City requires an electrical upgrade because new countertops usually trigger the purchase of new appliances, which could severely overload an antiquated electrical system; the issue is a life and fire safety matter; a couple of years ago, a Bay Street house fire was the result of an antiquated electrical system.

Mayor Johnson stated the Bay Street house was a lot older than a number of homes in Alameda; that she receives most complaints from Harbor Bay residents; Harbor Bay homes are not old.

The Building Official stated an electrical upgrade would not be required if a house is less than twenty years old because the Code has not changed; an electrical upgrade makes sense for older homes.

The Interim City Manager inquired whether the [electrical upgrade] requirement is an Electrical Code or Fire Code interpretation, to which the Building Official responded Electrical Code.

Mayor Johnson inquired whether a separate standard should be in place if new appliances are not be installed; stated the issue is very irritating to people and has been questionable for years; the issue should be reviewed.

Vice Mayor deHaan stated that he agrees with Mayor Johnson; the envelop is being pushed farther than necessary; inquired whether permits have increased, to which the Building Official responded permits have increased approximately 10% from last year.

Vice Mayor deHaan inquired whether more people are being hired to handle the increase.

The Interim City Manager responded temporary contract people are being used; stated nothing has been added in this year's budget [to hire inspectors].

Vice Mayor deHaan inquired whether staff is able to provide next day [inspection] service.

The Building Official responded last year, second day inspections were about 95%; stated staff has drifted back to approximately 75% same day inspections; more than a two-day inspection seldom occurs.

Vice Mayor deHaan inquired what is the reserve amount.

The Interim City Manager responded the estimate for the year end is that the reserve amount would be approximately \$400,000; stated the goal is to get a minimum ninety-day working capital.

Mayor Johnson inquired when staff would come back with [planning and building fee] changes.

The Interim City Manager responded part two could be brought back in thirty days; stated a window, awning, and countertop information could also be brought back.

Councilmember Matarrese stated that he would like the next presentation to include material in the packet.

Mayor Johnson inquired whether the window and interim mutton issue has been resolved.

The Building Official responded staff is much clearer; staff would come back with information on what can and cannot be done.

Mayor Johnson inquired whether different windows are allowed for different types of buildings, to which the Building Official responded in the affirmative.

(10-418) Urban Greening Planning Grant

The Interim City Manager gave a brief presentation.

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Vice Mayor deHaan left the dais at 9:08 p.m. and returned at 9:10 p.m.

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Mayor Johnson stated moving forward on the matter is great; hopefully, Alameda will become a model City.

(10-419) Citywide Records Retention and Destruction Policy

The Interim City Manager gave a brief presentation.

Mayor Johnson inquired whether the City would digitalize as much as possible; stated the Museum has some City records; the City should put the records into the City's digitalized records; that she does not mind destroying paper copies once records are digitalized.

Councilmember Gilmore stated the email policy should be reviewed also; that she is not sure whether the issue should be reviewed by the Sunshine Task Force or staff; [electronic] storage is cheap; there is no good reason not to keep digital records and emails.

Councilmember Matarrese stated a records company should be utilized; records required by statute should be on microfiche because microfiche lasts 100 years; someone with technical expertise is needed.

The Interim City Manager stated staff is focusing on inventory; right now, the issue is an organizational issue.

Mayor Johnson stated that she agrees with Councilmember Matarrese regarding getting expert help; the Courthouse scans every document filed; most documents are available almost immediately; Alameda is a little behind in its technical capacity; investments need to be made.

The Interim City Manager stated the first step is to do something with the phones; the money saved [from a new telephone system] can be used to reinvest in the computer system; approximately \$100,000 has been put in the budget to upgrade computers; the City's hardware is archaic.

Vice Mayor deHaan stated digital should be at the front end; inquired whether the City Clerk's office digitalizes documents, to which City Clerk responded in the affirmative.

Vice Mayor deHaan stated things that go into the [digital] archives would not go into storage boxes.

The City Clerk stated Council has never authorized not keeping paper files; everything is stored as paper as well; the City Clerk's office uses microfiche also.

Mayor Johnson stated that her preference would be to digitally preserve records, not destroy records.

The Interim City Manager continued the presentation.

Councilmember Tam stated that she agrees with Mayor Johnson; stated policy should drive technology; the policy should be consistent with the State's email retention policy; that she works extensively with litigation and a record retention policy that pretty much requires that nothing be destroyed; that she would like to see the Sunshine Task Force

advise Council on the matter; a thirty-one page proposed ordinance will be presented this Saturday; that she would like to get policy direction from the community as well.

Mayor Johnson stated that the City should get the documents from the Museum.

Speaker: Jeff Mitchell, Alameda.

(10-420) Executive Management Compensation: Form and Process

The Interim City Manager gave a brief presentation.

Mayor Johnson inquired whether each individual Department Head contract would come to Council.

The Interim City Manager responded the form would not be a contract but would be more of a traditional Memorandum of Understanding (MOU); stated contracts are not used as much as before.

Mayor Johnson inquired whether the [Executive Management] MOU would be binding on the City; stated offer letters are not contracts and are not binding on the City; City Managers have abused some things in offer letters; contracts need to be approved by Council; that she is glad that the Interim City Manager is bringing the matter to Council because the proposed form would prevent abuse by City Managers and circumvention of Council authority; inquired whether the [Executive Management] MOU would be binding on the City.

The Interim City Manager responded the [Executive Management] MOU would be just like other bargaining units' MOUs and would be binding; stated the [Executive Management] MOU would be similar to other MOUs.

Councilmember Matarrese inquired whether the [Executive Management] MOU would be brought back to Council for approval, to which the Interim City Manager responded in the affirmative.

Councilmember Matarrese stated that he would like to have other options come back to Council as an agenda item so that Council would be able to discuss the pros and cons of a contract versus an [Executive Management] MOU and provide direction.

The Interim City Manager stated three types have been discussed: an offer letter, a contract, or a [Executive Management] MOU.

Mayor Johnson stated that she does not like the idea of claiming that an offer letter could be binding on the City.

Councilmember Gilmore stated the Interim City Manager and Department Heads would create a document that would be applicable across the departments; the [Executive

Management] MOU could also be called a template; the template would be brought back to Council for review; Council would have the option of approving the template or using some other vehicle; assuming that Council would approve the template, the template would become the boiler plate for a City Manager to use when hiring a Department Head; the template would be the same as other bargaining unit MOUs.

Mayor Johnson inquired how a City Manager would get from the template to deals with a Department Head to make the template binding on the City.

The Interim City Manager responded the template would be available to a Department Head; stated a transmittal or offer letter might be transmitted to the candidate and the template could be attached.

Mayor Johnson stated a previous City Manager gave a Department Head a deal which she does not think Council would have ever approved; someone could call something a contract and binding obligation even when it is not.

The Interim City Manager stated the template would be very specific.

Councilmember Tam stated Council has discussed the issue in the past; Mayor Johnson and Councilmember Matarrese have raised the potential of an amendment to the City Charter; one suggested hybrid approach was to use the City of Berkeley model where the City Manager offers a job to a Department Head, which is tentative and subject to Council approval, and includes all terms of employment so that there is some Council oversight; said approach is an available option in looking at a Charter amendment.

Mayor Johnson stated that she does not think a Charter amendment is required because Council has to approve a contract; a contract is a binding obligation that the citizens of Alameda have to fulfill.

The Interim City Manager stated that she thinks in terms of a contract having a start and end date; an offer letter, which is the least specific, offers the most customization and opportunity for individual arrangements and negotiations.

Councilmember Matarrese stated that he would like to have the matter placed on an agenda, have the Interim City Manager provide a written analysis of what is being proposed, and have the City Attorney's office analyze what a contract would be for an individual who would become a Department Head, what the City would be obligated to give the individual, and what would obligate the City.

Vice Mayor deHaan stated Council is going the right way; elements need to be standardized; Council needs to have an opportunity to review various options.

Mayor Johnson stated a City Manager's verbal offers are an abuse that needs to be prevented; having an [Executive Management] MOU may not prevent the abuse from

occurring.

Councilmember Gilmore inquired whether a person is really hired if Council does not appropriate the money.

The City Attorney responded in the negative; stated the Charter only gives Council, not a City Manager, the authority to set compensation and pension benefits for any employee; Council approves a salary range and specific benefits that can be offered to represented employees through an MOU; Council needs, at bare minimum, to have a standardized document approving a salary range and benefit package for Department Heads; the standardized document would allow a City Manager to hire only within the parameters of a compensation plan and benefit package; any past offer letters that have not been ratified by Council are not binding on the City; that she agrees with Mayor Johnson on said matter.

Councilmember Tam stated ratifications have been part of the budget process and have not been very specific when it comes to Department Heads; that she would like the staff analysis to include some discussion regarding uniformity and retroactivity; Department Heads have different needs; work hours are different; inquired whether a car allowance could be taken away uniformly for all Department Heads or whether the issue could be adjusted within the template, a quasi MOU, or specified to different classifications.

The Interim City Manager responded models are available for all three concepts; the goal is to make the template specific and less ambiguous.

REGULAR AGENDA ITEMS

(10-421) Resolution No. 14488, "Appointing Madeline Deaton as a Member of the Public Utilities Board." Adopted.

Councilmember Matarrese moved adoption of the resolution.

Vice Mayor deHaan seconded the motion, which carried by unanimous voice vote – 5.

(10-422) Recommendation to Pursue Activation of the City of Alameda's Participation in the City of Oakland's Foreign Trade Zone (FTZ) #56 in Response to Appropriate Business Opportunities.

The Deputy City Manager – Economic Development gave a brief presentation.

Vice Mayor deHaan stated Alameda is not a port or a destination center for distribution of goods; inquired how Alameda's participation would work.

The Deputy City Manager – Economic Development responded Alameda is considered to be part of the larger port of entry and is part of FTZ #56.

Mayor Johnson requested an explanation on taxes.

The Deputy City Manager – Economic Development stated a business would repackage or assemble goods at a location in Alameda and export goods through the port or Oakland airport; expensive excise taxes would be avoided because goods would not be imported to the United States.

Mayor Johnson stated some tariffs have gone up to 600% which makes it more economically feasible to assemble and manufacture items within the United States.

Vice Mayor deHaan inquired how successful Oakland has been; further inquired whether Alameda would be in competition with Oakland; stated corridors are a concern.

The Deputy City Manager – Economic Development responded Alameda has already received some preliminary interest; stated Alameda has land in close proximity to a port and international airport; the activation would be another tool in the economic development tool kit; participation could be used on an opportunistic basis.

Mayor Johnson stated participation would not just be repackaging but would be job creation in the United States.

The Deputy City Manager – Economic Development stated Oakland wants to support Alameda's participation because business would be brought to the port and airport.

Mayor Johnson stated Council should not assume that Alameda would be dealing with containers going back and forth through the tube as in the past.

The Deputy City Manager – Economic Development stated the City would only participate in the right opportunities.

Councilmember Matarrese stated the issue should be explored; private investment opportunities would be available for buildings that need help; the investment would spur jobs.

Vice Mayor deHaan stated that he would like to review how the operation would work; questioned why Oakland is not using its FTZ to the maximum; stated using interim reuse may work extremely well; the vision would not be to warehouse at the port.

The Deputy City Manager – Economic Development stated impact assessments are very difficult without site-specific opportunities; staff would come back to Council with opportunities that make sense and are consistent with goals.

Councilmember Gilmore inquired whether a fee is associated with activating participation.

The Deputy City Manager – Economic Development responded in the negative; stated

staff and minimal consultant time would be needed to ensure that things are done right; the application process is straight forward because Oakland has already gone through the more extensive process.

Councilmember Gilmore stated activation seems reasonable; staff would bring back site-specific opportunities to Council.

Mayor Johnson stated that she agrees with Councilmember Gilmore; activation does not mean that the floodgates need to open.

Councilmember Gilmore stated community input would be needed also.

Councilmember Tam inquired whether the City of Oakland is in favor of Alameda's potential activation.

The Deputy City Manager – Economic Development responded the City of Oakland has been very helpful in initial conversations; stated staff did not want to go too far out without getting Council direction.

Mayor Johnson stated activation would present regional opportunities through jobs and economic development.

Speakers: Former Councilmember Tony Daysog, Alameda; and Alex Chen, Alameda.

Following Former Councilmember Daysog's comments, Mayor Johnson inquired whether the City of Oakland would be in control, if activation would occur.

The Deputy City Manager – Economic Development responded the City's activation would be part of Oakland's FTZ; stated Matson Global Distribution Services operates the general-purpose FTZ.

Mayor Johnson inquired whether Alameda would have control over what goes in Alameda.

The Interim City Manager responded uses would belong to Alameda; stated Matson Global Distribution Services would administer the FTZ in compliance with federal law.

The Deputy City Manager – Economic Development stated participation would be on a site-specific basis.

Councilmember Matarrese requested verification that whatever goes into the Alameda section of the FTZ would be controlled exclusively by Alameda within constraints of federal law, to which the Deputy City Manager – Economic Development responded in the affirmative.

Councilmember Gilmore inquired whether participation would not be activated until a

promising opportunity would be brought to Council, to which the Deputy City Manager – Economic Development responded in the affirmative.

Councilmember Tam inquired whether Council could reject a promising opportunity, to which the Deputy City Manager – Economic Development responded in the affirmative.

Following Mr. Chen's comments, Mayor Johnson requested an explanation of tariff issues that have prompted interest in FTZs.

Mr. Chen stated duty on laptop parts is 20%; duty on an assembled laptop is 255%.

Vice Mayor deHaan inquired whether union jobs would be generated, to which Mr. Chen responded that he does not know.

Mayor Johnson stated that she had not heard of any exemptions from [using] unions.

The Interim City Manager stated some cities have elected to establish policies in terms of working with anyone interested in the FTZs.

Councilmember Matarrese moved approval of the staff recommendation with consideration of the type of jobs that would be created to match existing City policy.

Mayor Johnson inquired whether the motion is to pursue the activation, to which Councilmember Matarrese responded in the affirmative.

Vice Mayor deHaan stated Council would have the opportunity to review opportunities on a case-by-case basis.

Vice Mayor deHaan seconded the motion, which carried by unanimous voice vote – 5.

ORAL COMMUNICATIONS, NON-AGENDA

(10-423) Jon Spangler, Alameda, discussed board and commission vacancies.

(10-424) Peter Clark, Community Response Foundation, discussed the America's Cup.

The Interim City Manager stated that staff is working on the American's Cup process.

Vice Mayor deHaan requested an update.

The Interim City Manager stated the American Cup Association is in the process of finalizing an agreement with San Francisco; an update would be provided to Council; San Francisco has made a commitment to work with Alameda.

(10-425) Jean Sweeney, Alameda, thanked the Interim City Manager for obtaining the Urban Greening Planning Grant; thanked the Commission on Disability Issues for the

College of Alameda intersection improvement; discussed the archive documents on her website.

Mayor Johnson stated the City needs to have archived documents.

(10-426) The following speakers discussed the District Attorney's letter with the decision that there was insufficient evidence against Councilmember Tam: Jeff Mitchell, Alameda; John Knox White, Alameda; Barbara Kahn, Alameda; and Bill Smith, Alameda.

Councilmember Gilmore stated acknowledging and respecting the District Attorney's decision and legal process is important; the City's role has been to present the results of its investigation and have the District Attorney make a determination, which has been done; that she would vigorously oppose spending any more tax dollars on such a frivolous matter; everyone should settle down, take a deep breath, and reject the urge to escalate the matter; now is not the time for further litigation or acrimony; going after Councilmember Tam civilly appears at a minimum to be a complete waste of tax dollars and the Court's time; learn from what has occurred and get back to doing the business that the people of the City elected Council to do; to that end, it is really important that citizen's know that Council's judgments will be made with their best interest at heart; before considering any new actions on anything further relating to the matter, she will ask, echoing some of the comments made tonight, that the City Auditor audit the books and records relating to the matter so that the public has a clear understanding of the amount of money expended on the matter; right now, Council does not know how much money has been spent; secondly, she requests that outside counsel, not the firm involved in the matter, conduct a workshop on the Brown Act for Council, staff, Boards, Commissions, and any interested members of the public; finally, she requests the Council to agree that the appropriate venue for dealing with the Interim City Manager and City Attorney actions are within the context of performance reviews which have been previously scheduled and are coming up shortly; hopefully everything can be put behind once performance reviews are done and the Councilmembers can get back to the work the citizens of Alameda elected them to do; in the interest of taking a deep breath and pausing, her question to her colleagues is that she does not understand why there is a Council meeting on Thursday to determine whether or not to file litigation; that she does not know why there is a rush; if the meeting occurs at all, given the events and circumstances of the case, she suggests having the meeting in open session; the public deserves to know why and how tax dollars are being spent; individuals and attorneys who want to push forward with the case should present the rationale for doing so in the face of the fact that the District Attorney rendered an opinion that there is no evidence to pursue the matter.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(10-427) Councilmember Tam stated for weeks Mayor Johnson, the Interim City Manager, and the City Attorney have been asking the District Attorney through outside counsel, Michael Colantuono, to expedite the investigation so that the City can get on with its business; for the record, based on the letter that the District Attorney has sent and the Island blog has published on its website, she learned that the City's special counsel sent five letters of which she has only seen three along with her attorney; her attorney has sent two; the City Attorney's office, through Mr. Colantuono, submitted a letter practically every other week documenting issues and concerns they have with her email and her communications; 285 pages; the District Attorney waited and reviewed every single one in a very exhaustive way; they have come to the determination that there is no legal or factual basis to support the allegations that the Brown Act has been violated or that she has mishandled confidential information; asking the Council to discuss issues of concern to the public, whether the public raises it, whether a City business partner raises it, or whether an employee group raises it, is wholly appropriate and is part of her responsibility as a City Councilmember; it is unfortunate that the City issued a press release that does not seem to respect the exhaustive review and the analysis of the District Attorney that has lasted over two months; it is also unfortunate that they have produced a press release that distorts the District Attorney's findings that the matter is closed.

(10-428) Councilmember Gilmore stated that she understands that the County is at a very preliminary stage in discussing the potentially moving forward with Countywide project labor agreements that would affect all cities; it might behoove the City to take a look at the issue; that she will bring back a Council Referral for discussion.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the meeting at 10:38 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING
TUESDAY- -SEPTEMBER 7, 2010- -7:02 P.M.

Mayor/Chair Johnson convened the meeting at 10:40 p.m.

ROLL CALL – Present: Councilmembers/Commissioners deHaan, Gilmore,
Matarrese, Tam and Mayor/Chair Johnson – 5.

Absent: None.

* * *

Councilmember/Commissioner Tam left the dais at 10:40 p.m. and returned at 10:42 p.m.

* * *

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(10-65 CIC) Presentation on Façade Assistance Program for fiscal year 2009-2010.

The Development Coordinator gave a Power Point presentation.

Chair Johnson stated the façade grants make a big difference within the community; the before and after pictures are unbelievable; that she wishes more money could be found for the Program.

Commissioner Gilmore stated a lot of work has been done on Park Street and Webster Street; a critical mass has now been reached and the faces of the streets are changing.

Speakers: Jon Spangler, Alameda; and Robb Ratto, Park Street Business Association.

Commissioner deHaan stated the Façade Assistance Program has been extremely successful; involving new proprietors in the beginning is very important.

MINUTES

(10-429 CC/10-66 CIC) Minutes of the Joint City Council, Alameda Reuse and Redevelopment Authority, and Community Improvement Commission Meetings held on July 20, 2010, and July 27, 2010. Approved.

Vice Mayor/Commissioner deHaan moved approval of the minutes.

Councilmember/Commissioner Matarrese seconded the motion, which carried by unanimous voice vote – 5.

AGENDA ITEMS

(10-430 CC) Recommendation to Authorize the Community Improvement Commission of the City of Alameda to Enter into an Exclusive Negotiation Agreement (ENA) with Warmington Residential for Redevelopment of the City's Corporation Yard Located at 1616 Fortmann Way and the City's Animal Shelter Located at 1590 Fortmann Way; and

(10-67 CIC) Recommendation to Approve an Exclusive Negotiation Agreement by and between the Community Improvement Commission and Warmington Residential for Redevelopment of the City's Corporation Yard Located at 1616 Fortmann Way and the City's Animal Shelter Located at 1590 Fortmann Way.

The Deputy City Manager – Development Services gave a brief presentation.

Mayor/Chair Johnson stated the project is small; inquired why the initial term of the ENA would be eighteen months.

The Deputy City Manager – Development Services responded the timeframe is more of an issue with the City developing a relocation study and is more for the City's benefit.

Mayor/Chair Johnson inquired what has been learned from the SunCal ENA.

The Deputy City Manager – Development Services responded the City has standard and good faith provisions and termination dates in all ENAs; stated the project is for two acres and up to twenty-seven units; the ENA is simple and straightforward.

Mayor/Chair Johnson stated no developer is perfect, but no developer is like SunCal; the City's relationship with SunCal totally broke down; inquired whether assurances are in place to avoid a similar breakdown with Warmington Residential.

The Deputy City Manager – Development Services responded Warmington Residential has a proven track record in the City and is moving forward in very difficult economic times; stated staff feels comfortable with Warmington Residential.

The Interim Executive Director stated staff needs to assess whether moving the two facilities [Corporation Yard and Animal Shelter] is feasible for the City; the ENA is not as complex as the SunCal ENA.

Commissioner Gilmore inquired whether the CIC budget includes \$100,000 that would be needed to reimburse Warmington Residential for geotechnical and environmental testing if the project does not go through.

The Interim Executive Director responded in the affirmative; stated every year, a small amount is budgeted for studies.

Commissioner Gilmore inquired whether the project would be subject to affordable housing requirements, to which the Deputy City Manager – Development Services responded in the affirmative.

Commissioner deHaan stated his concern is the Corporation Yard and Animal Shelter relocation; the Animal Shelter relocation would cost between \$1.2 million and \$3 million; the Corporation Yard relocation would be approximately \$2 million; inquired where funding would come from.

The Deputy City Manager – Development Services responded \$376,000 is budgeted for a relocation study; stated a process would be needed to outline how the City would successfully relocate and construct the facilities.

The Interim Executive Director stated costs would not be known until studies are completed; the City has real estate assets that are not used to the highest, best use; conversations need to address the fact that the Animal Shelter needs to move and the Corporate Yard location is not logical; that she has some financing ideas.

Chair Johnson stated the entire northern waterfront is blighted; public waterway access has been very limited.

Speaker: Andy McKinley, Grand Marina and Alameda resident.

Chair Johnson inquired whether Mr. McKinley is using other property to satisfy parking requirements for his property.

Mr. McKinley responded right now, the parking problem has no solution; stated that he is proposing everything west of the northern extension of Paru Street be excluded.

Commissioner Matarrese stated the Corporation Yard and Animal Shelter need to be relocated; the area is complex; that he is not sure the ENA is the solution; that he sees a couple of incompatibilities: the area has a full service marina and shops in the Alaska Packers Building, which needs repair and investment; parking needed to maintain the shops is being eaten up by development; the Boat Yard generates noise; having houses next to a boat yard would result in a collision; mixed use sounds great in an urban planning textbook, but somebody is going to lose at some point; the ENA could be a tool to see what is feasible and practical; his yardstick would measure whether a true mixed use development would work.

The Interim Executive Director inquired whether the waterfront plan states mixed use.

The Deputy City Manager – Development Services responded mixed use is noted in the General Plan; stated the property is zoned residential.

Chair Johnson stated staff ought to take another look at the zoning; the issue is similar to the Catellus project.

Commissioner deHaan stated that he agrees; perhaps some retail would be needed

instead of ship operations; that he would like to look at the matter and flush out the \$376,000 relocation study.

The Deputy City Manager – Development Services stated the proposed use could be compatible with residential.

Commissioner deHaan inquired what options have been reviewed for the Alaska Packers Building.

The Deputy City Manager – Development Services responded the Tidelands Trust limits uses to maritime, visitor, retail, and restaurants.

Chair Johnson stated the Alaska Packers Building should be considered in the plans for the site.

The Interim Executive Director stated a parallel track could be initiated with the ENA; staff could come back with two proposals.

The Deputy City Manager – Development Services stated the relocation study should be done at the same time also.

Mr. McKinley stated Warmington Residential gave the City \$100,000 to build a new facility when property was swapped.

Commissioner Gilmore stated that she is intrigued with the proposal, which should be reviewed; she would be more comfortable seeing more information on the Alaska Packers Building before acting on an ENA; she would hate to get into a situation where one problem is solved by moving the Corporation Yard and Animal Shelter and revitalizing the property only to cause difficulty for the Alaska Packers Building, which is a City asset with restricted uses because of the Tidelands Trust; the upkeep [Alaska Packers Building] would fall on the City by not allowing a developer to develop the project in a financially feasible manner.

Commissioner deHaan stated looking at the Corporation Yard and Animal Shelter construction costs is important; funding streams need to be known; the worst thing would be to get half way through the process and not have funding; that he would like to have the matter flushed out.

Chair Johnson stated that she agrees with Commissioner deHaan; the purpose of bringing the matter before the Commission tonight is to start looking at the issues.

Commissioner Matarrese stated that he has no problem with starting the ENA with Warmington Residential; an ENA would not allow negotiations with anyone else on the residential portion of the project; that he does not want to go eighteen months and then have the administrative ability to go three more months; things need to be brought back

regarding the Alaska Packers Building; a guide of the ENA should be to protect the Alaska Packers Building as a City asset to ensure that there would not be future incompatibilities with a working boat yard and adjacent residences; a project labor agreement would be needed; zoning should be reviewed to ensure compatibility; said issues should be spelled out as ENA conditions.

Commissioner Tam stated tonight, she is not ready to craft a motion to enter into an ENA; that she does not have the same level of comfort as her colleagues without a comprehensive review of relocation plans and financing; the Animal Shelter is a very sensitive, emotional issue in the community; public comment is needed before she is comfortable with moving forward.

Commissioner Gilmore inquired what would be the timeframe for bringing the matter back; further inquired whether relocation sites and costs could not be started.

The Deputy City Manager – Development Services responded the contract to do so [relocation study] is separate.

Commissioner Gilmore stated she would like to move forward with looking at relocation sites and costs.

The Deputy City Manager – Development Services stated the review would take eight months to a year.

Commissioner Gilmore stated coming back with an [revised] ENA would not take eight months to a year.

The Deputy City Manager – Development Services inquired whether Council would like staff to come back [with the ENA] in twelve months.

Chair Johnson stated staff should get started on the relocation part.

Commissioner Tam stated certain things need to be nailed down; that she does not know how long it would take to nail things down; the public process needs to be transparent.

The Deputy City Manager – Development Services inquired whether the Commission wants the relocation study started or completed [before entering into the ENA].

The Interim Executive Director stated that she recommends a parallel track; a complete relocation analysis and study with a consultant would take several months.

Chair Johnson stated that she likes an almost parallel track, suggested getting started on the relocation part.

The Deputy City Manager – Development Services stated some Commissioners want to know the financial aspects, which would be pretty far along in the study.

Commissioner Tam inquired whether knowing how much the land would sell for would be important.

The Deputy City Manager – Development Services responded what the land is worth versus relocation costs are two separate issues.

* * *

Councilmember/Commissioner Tam left the dais at 11:47 p.m. and returned at 11:50 p.m.

* * *

Commissioner deHaan stated a lot of loose ends exist; that he does not think the Commission is ready to go forward; costs could be calculated on the back of a napkin; the ENA does not have to be done immediately.

The Deputy City Manager – Development Services stated concrete answers would not be known until the relocation study is done.

Commissioner deHaan inquired what would be the square footage of the Animal Shelter, to which the Deputy City Manager – Development Services responded staff would hire someone to answer said question.

Commissioner Matarrese stated the idea of the ENA would be to sit down with Warmington Residential to see their valuations and what they can do to build houses in the area; the output would be a Development Agreement (DA); the DA would need to be compatible with uses, including the Packers Building, and would have to account for relocating two City operations; moved approval of directing the Interim Executive Director to come back with an updated ENA for the Commission to discuss, to define a timeframe in the ENA for the CIC and Warmington Residential that would point to the parallel work that has to be done exclusively, including existing operations around the Alaska Packers Building, and to look at other rules and benefits for the City, including a labor agreement, appropriate zoning, and all public hearings necessary to ensure that the public knows the intent and milestones in between.

* * *

(10-431 CC/10-68 CIC) Councilmember/Commissioner Matarrese moved approval of continuing past 12:00 midnight.

Vice Mayor/Commissioner deHaan seconded the motion, which carried by unanimous voice vote – 5.

* * *

Commissioner deHaan stated the Commission is not asking for a lot of detail; other elements need to be considered in order to be successful.

Chair Johnson stated the Animal Shelter would be better off in another location.

The Interim Executive Director stated that she has recommendations on where the Corporation Yard and Animal Shelter could go; this year's budget has funds for a very extensive feasibility analysis for rebuilding, constructing, and relocating the Corporation Yard and Animal Shelter; the process should not be started until the CIC knows what the property can be sold for in order to put more cash into the deal; the Commission's comments and Commissioner Matarrese's amendments to the ENA have seven different components which would be put into the ENA; staff would come back regarding getting consultants on board to start the feasibility analysis; the CIC does not have the cash or funds to buy property and build something; the cost estimate would be based on the type of building and landscape, as well as the physical relocation cost; staff has other recommendations for the Commission in terms of what could happen with Alameda Municipal Power; through an asset management strategy, the CIC could have more than enough to pay for the Animal Shelter and approximately 50% to pay for the Corporation Yard; a deal might be able to be struck in a DA to offset costs; the situation is sequential.

Chair Johnson stated ensuring a benefit to the City is important in terms of the economy of scale.

Commissioner Gilmore inquired whether a bunch of dominos need to fall in order to finance the Corporation Yard and Animal Shelter relocation; stated the Commission has a sense of unease because the Interim Executive Director has a clear idea of where to move the Corporation Yard and costs; that she is not privy to the information.

The Interim Executive Director stated that she needs to have some discussion regarding selling the property in order to validate numbers and theories; the cart is before the horse.

Commissioner Gilmore stated Commissioner deHaan is asking for ballpark figures.

Commissioner deHaan inquired how much two acres is worth to Warmington Residential.

Michael McClellan, Warmington Residential, responded that he does not know until preliminary testing is done.

Commissioner deHaan inquired how much two clean acres would be worth.

Mr. McClellan responded approximately 20% of land value; stated the issue is that the property is small, irregular, and under bay mud; that he spoke to Pennzoil about the

plume; a lot of work has been done; Warmington Residential would test in proper places and provide information on the land value; Warmington Residential expects zoning issues to be resolved and is very excited to be part of the project.

The Deputy City Manager – Development Services reiterated that the motion is to bring back an updated ENA that specifically contemplates parallel work related to the Grand Marina Lease, which would include what would happen with the reuse of the Alaska Packers Building relocation as well as the Corporation Yard and Animal Shelter relocation process and other rules regarding zoning, a labor agreement, and plumes future environmental compatibility.

The City Clerk stated the motion includes compatibility with other uses and sufficient public hearings in order to address community needs.

Commissioner Gilmore inquired whether direction would be given to staff to start on relocation issues right away, to which the Deputy City Manager – Development Services stated money has already been budgeted to start the process.

Vice Mayor/Commissioner deHaan seconded the motion, which carried by unanimous voice vote – 5.

Chair Johnson stated that she looks forward to having the Animal Shelter relocated; the Shelter is not optimal for the animals; she wants a better facility.

Commissioner Tam stated Mount Trashmore is not the right place.

Commissioner deHaan stated past discussions have included taking in other districts to make the Animal Shelter profitable.

The Interim Executive Director stated staff has looked at other options, including doing what Berkeley has done.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the meeting at 12:03 a.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, CIC

The agenda for this meeting was posted in accordance with the Brown Act.